

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

D. DUSTIN,

No. C-13-1784 EMC (pr)

Plaintiff,

v.

**ORDER OF DISMISSAL**M. D. BITER, Warden; *et al.*,Defendants.  

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This action was opened on April 19, 2013, when the Court received from Dale Owen Dustin a letter about the conditions of confinement in prison. On that date, the Court notified Plaintiff in writing that his action was deficient in that he had not attached a complaint and had not filed an *in forma pauperis* application. The Court further notified him that this action would be dismissed if he did not submit a complaint within 28 days. Plaintiff requested and received an extension of the deadline to August 4, 2013 to file the complaint and *in forma pauperis* application. When that extended deadline arrived, Plaintiff filed a second request for an extension of the deadline. The court granted the second request, further extended the deadline to September 20, 2013, and warned that “[n]o further extensions of this deadline will be granted because, by the time the extended deadline arrives, Plaintiff will have had five months to prepare his complaint.” Docket # 7.

Plaintiff has requested a third extension of the deadline in a mostly illegible filing. Docket # 8. Five months was more than enough time to prepare the complaint, and Plaintiff’s failure to file a complaint suggests that he is not ready to litigate at this time. There is no reason to believe that, if the court granted a third extension of time, Plaintiff would not ask for a fourth extension of time and


1 a fifth extension after that. Plaintiff's request for a third extension of time to file his complaint is  
2 **DENIED**. Docket # 8.

3 Accordingly, this action is **DISMISSED** without prejudice for failure to submit a pleading  
4 showing the Court has subject matter jurisdiction and for failure to pay the filing fee or file an *in*  
5 *forma pauperis* application. The dismissal without prejudice means that Plaintiff may file a new  
6 civil rights action when he is ready to do so; when he files that complaint, he should not put a case  
7 number on it because a new case number will be assigned to it. Much of Plaintiff's handwriting is  
8 illegible, and he must strive to write more clearly in future filings.

9 The Clerk shall close the file.

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11 IT IS SO ORDERED.

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13 Dated: October 17, 2013

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15 EDWARD M. CHEN  
16 United States District Judge  
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